IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

Civil Revision No.6011 of 2006
Date of decision: March 6,2007

Rajbir V. Mehar Singh

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri R.K.Jain,Advocate, for the petitioner.
Shri Shailender Jain, Advocate,for the respondent.

Viney Mittal,J.(oral)

Plaintiff is the petitioner before this court. He has challenged the order dated September 28,2006 passed by the trial Court whereby it noticed that the costs had been paid by the defendant and an application filed by the defendant under Order 7 Rule 11 of the Code of Civil Procedure has been adjourned for consideration.

It appears from the record that on an earlier occasion the trial vide order dated February 11,2004, the defence of the defendant was ordered to be struck off for not filing the written statement. Vide order dated July 10,2006 passed in C.R. No.1268 of 2004, this court had set aside the aforesaid order dated February 11,2004 and the defendant was granted one opportunity to file the written statement and counter claim within one month of the date of receipt of the certified copy of the order, subject to payment of Rs.5,000/- as costs.

It further appears from the record that application dated August 22,2006 was filed by the plaintiff with a plea that since the order of the High Court had not been complied with by the defendant and costs had not been paid, therefore, the written

statement/counter claim filed by the defendant could not be taken into consideration.

However, while passing the impugned order on September 28,2006,the trial Court has noticed that the costs had been paid by the defendant.

Shri R.K.Jain, learned counsel for the plaintiff has contended that costs imposed by this court vide order dated July 10,2006 had not been paid by the defendant to the plaintiff. However, Shri Shailendra Jain, learned counsel for the defendant has informed the court that the costs of Rs.5,000/- had been deposited by the defendant with the District Legal Services Authority, Gurgaon.

Be that as it may, since the written statement/counter claim has already been filed by the defendant and an amount of Rs.5,000/- has also been deposited by him with the Legal Service Authority, therefore, it would not be appropriate to interfere in the present revision petition. The same is dismissed.

However, in terms of the direction dated July 10,2006, the defendant-respondent shall be required to pay costs of Rs.5,000/- to the plaintiff on a date which shall be fixed by the trial court. The costs already deposited with the District Legal Services Authority shall, however, not be refunded.

The parties are directed to appear before the trial court on April 24,2007.

A copy of the order be given dasti on usual charges.

March 6, 2007 (Viney Mittal)
sks Judge